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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/787,853	07/23/2001	Paul R. Mort III	7713M/DO	7498

27752 7590 08/29/2003

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EXAMINER

DOUYON, LORNA M

ART UNIT

PAPER NUMBER

1751

DATE MAILED: 08/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/787,853

Applicant(s)

MORT III ET AL.

Examiner

Lorna M. Douyon

Art Unit

1751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 June 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Art Unit: 1751

1. This action is responsive to the amendment filed on June 6, 2003.
2. The objection to claim 5 is withdrawn in view of applicant's amendment.
3. The rejection of claims 6 and 7 under 35 U.S.C. 112, second paragraph is withdrawn in view of applicant's amendment.
4. The rejection of claims 1-8 under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Mazzola (US Patent No. 5,482,646) is withdrawn in view of applicant's amendment.
5. Claims 1-8 stand rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Boskamp et al. (US Patent No. 5,583,098), hereinafter "Boskamp" for the reasons set forth in paper number 7.

Response to Applicants' Arguments

6. Applicants' arguments filed June 6, 2003 have been fully considered but they are not persuasive.

With respect to the rejection based upon Boskamp, Applicants argue that this reference employs citrate of a defined particle size which is different from the size of the base powder to

Art Unit: 1751

improve the delivery and dissolution characteristics of the composition. Applicants also argue that this reference takes a chemical path to solving dissolution problem whereas Applicants have addressed the size and geometry parameters of the particles to solve the problem.

The Examiner respectfully disagrees with the above arguments because Boskamp teaches that the citrate, which improves the delivery and dissolution characteristics of the composition in the wash, has a Rosin Rammler particle size less than 800 μm (see abstract), which particle size would still overlap the particle size of the present composition. In Example 7, the resulting product has a bulk density of 830 g/l, average particle size of 871 μm , 0.7 wt% fines and a residue score of 0.6. In Comparative Example C, the sodium citrate used has a particle size of 824 μm , the resulting product has a bulk density of 853 g/l, average particle size of 854 μm , 1.5 wt% fines and a residue score of 1.0, which is still acceptable. Hence, the working example 7 and even the comparative example C of Boskamp read on the bulk density and particle size requirement of the present claims. Considering the particle size, bulk density and percentage in fines of the products of Boskamp, it would be inherent for the compositions of Boskamp to have particle sizes with a standard deviation that would fall within the limitations of the present claims. With respect to Applicants' size and geometry parameters in solving dissolution problems, there is seen no evidence of unexpected dissolution property based on these parameters alone without considering the chemical make-up of the compositions. Accordingly, the rejection over Boskamp is maintained.

Art Unit: 1751

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lorna M. Douyon whose telephone number is (703) 305-3773. The examiner can normally be reached on Mondays-Fridays from 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta, can be reached on (703) 308-4708. The fax phone number for this Technology Center is:

(703) 872-9311 - for Official After Final faxes
(703) 872-9310- for all other Official faxes.

Application/Control Number: 09/787,853

Page 5

Art Unit: 1751

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center receptionist whose telephone number is (703) 308-0661.

August 22, 2003

Lorna M. Douyon

Lorna M. Douyon
Primary Examiner
Art Unit 1751